

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THOMAS HUBIACK, Individually  
and on Behalf of All Others  
Similarly Situated,

Plaintiff,

-v-

LI-CYCLE HOLDINGS CORP., AJAY  
KOCHHAR, and DEBORAH SIMPSON,

Defendants.

23-cv-9894 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.:

This is a putative securities fraud class action filed by plaintiff Rachel Davis against defendant Li-Cycle Holdings Corp. and two of its officers, Ajay Kochhar and Deborah Simpson. This action is governed by the Private Securities Litigation Reform Act ("PSLRA"). See 15 U.S.C. § 78u-4. The PSLRA requires the Court to "appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members." Id. § 78u-4(a)(3)(B)(i). On January 8, 2023, five individuals moved to be appointed lead plaintiff.<sup>1</sup> ECF Nos. 10, 13, 16, 19, 22. But in

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<sup>1</sup> The plaintiff who filed the complaint, Rachel Davis, did not so move.

the weeks that followed, all but one of movants withdrew from consideration. ECF Nos. 26, 28, 29, 32. Left standing is the motion of Dr. Thomas Hubiack, ECF No. 24, to which no oppositions were filed.

On February 20, 2024, the Court held a hearing at which it examined Dr. Hubiack and his counsel. After considering the submissions of Dr. Hubiack and the other movants who later withdrew, as well as the responses of Dr. Hubiack and his counsel to the Court's questions, the Court is satisfied that Dr. Hubiack is "most capable of adequately representing the interests of class members." 15 U.S.C. § 78u-4(a)(3)(B)(i). Accordingly, the Court hereby appoints Dr. Hubiack as Lead Plaintiff in this action. The Court likewise appoints Dr. Hubiack's counsel, Pomerantz LLP and The Portnoy Law Firm, as Class Counsel, based on the express representation from both firms at the hearing that the division between them of any attorneys' fees awarded will be at the discretion of the Court. See id. § 78u-4(a)(3)(B)(v) ("The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.").

Dr. Hubiack may file an amended complaint by March 15, 2024. If the amended complaint lists any new defendants, the parties must jointly call chambers within two business days of the filing of the amended complaint to set a schedule for any motion to

dismiss. If the amended complaint does not name any additional defendants, defendants may file a motion to dismiss by April 5, 2024, to which Dr. Hubiack may file opposition papers by April 19, 2024, and to which defendants may file reply papers by April 26, 2024. The Court will hold oral argument on any motion to dismiss on May 3, 2024, at 3:00 PM in Courtroom 14B. The Clerk is respectfully directed to amend the case caption to list Dr. Thomas Hubiack as the named plaintiff and to close documents 10, 13, 16, 19, and 22 on the docket.

SO ORDERED.

New York, NY  
February 21, 2024

  
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JED S. RAKOFF, U.S.D.J.